

**Congress of the United States**  
**Washington, DC 20515**

February 11, 2004

Honorable Tommy G. Thompson  
Secretary  
Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, D.C. 20201

Dear Secretary Thompson,

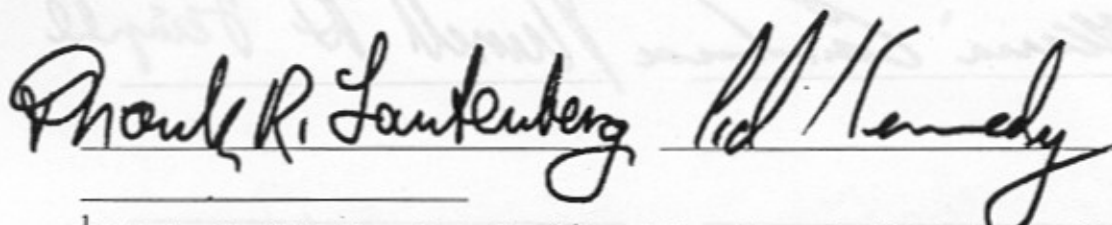
As you know, in response to a request by Senators Lautenberg, Kennedy, Kerry and Corzine and Representatives Schakowsky, Pallone, Stark, Rangel and Jim Davis, the General Accounting Office has begun a legal inquiry into your "plan to distribute a flyer and to broadcast radio and television advertisements regarding provisions of the Medicare Prescription, Drug Improvement, and Modernization Act of 2003 (MMA) and their effect upon Medicare beneficiaries."<sup>1</sup> Your department has been asked to respond by February 23 to a specific set of factual and legal questions from GAO in order to determine the legality of your Medicare campaign.<sup>2</sup>

In light of this GAO inquiry, we are writing to ask you to immediately suspend the Medicare campaign until the GAO determines whether it is an illegal use of taxpayer funds.

Given that at least \$22.6 million in public funds are at stake, we believe it is imperative that you stop the advertising campaign immediately and withhold the printing and mailing of the flyer. While there are a variety of remedies available against your agency for illegally appropriating public funds, it will be very difficult, if not impossible, to fully recover millions of taxpayer dollars after they are spent.

We would appreciate a response to this urgent request by Thursday, February 12, 2004. If you or your staff has any questions regarding this request, please call us or Dan Katz of Senator Lautenberg's office at 224-8964 or David Nexon of Senator Kennedy's office at 224-5406.

Sincerely,



<sup>1</sup> Letter from Gary L. Keplinger, Deputy General Counsel, General Accounting Office to Alex Azar, General Counsel, Department of Health and Human Services, February 6, 2004, p. 1

<sup>2</sup> The legality of the campaign has been challenged under the annual appropriations law that prohibits taxpayer funds to be used for "publicity or propaganda purposes." See Public Law 108-199, Div. F, Tit. IV, Sec. 624 and Public Law 108-7, Div. J, Tit. VI, Sec. 626

Steve Jim F. Kerry

Hillary Rodham Clinton Tom Koschke

Harry Reid Jack Deal

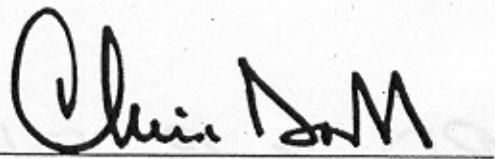
Tom Harkin Robert A. Neundorfer

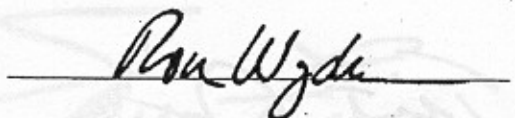
Maria Cantwell Murphy D. Fiering

Gail Lurie Rebekah Steiner

J. Wilson 

John Edwards Mack Dayton

Frederick Leaky 

Chas. Sch 

Barbara Lee



Robt Lacey      Samuel Perry

Samuel Bran      George B. Hy

Wm H. Cortis      Louise Slaughter

John F. Telling      Danny L. Davis

Wm H. C. Jones      Sam Fann

Joe Hoefel      Jim Moran

Jan Schlosberg      Frank Pallone, Jr.

Jim Davis      Jeff Lampson

Michael H. Michael      John B. Staff

Mike Rosen      John Crowley

Fred Strickland      Pete Stark

Tim Ryan      Quinn E. Shoo

George Miller Henry A. Waxman

Lane Evans Edith L. Enys

Rosa L. Laan Robert Menendez

Mark M. L. Peter DeFazio

William H. H. H. Carl E. Kiedee

Rail M. Grijalva Rahm Emanuel

John W. Green

Min. Free-

Nancy Pelosi